

June 18, 2003

Ms. Marlene H. Dortch Secretary Federal Communications Commission 445 12th Street, SW 12th Street Lobby, TW-A325 Washington, D.C. 20554

Re: Ex Parte Presentation CC Docket No. 96-45

Dear Ms. Dortch:

On June 17, 2003, the Cellular Telecommunications & Internet Association ("CTIA"), represented by Michael Altschul, Senior Vice President for Policy and Administration and General Counsel, Diane Cornell, Vice President for Regulatory Affairs, Michael Stern, Director, External Affairs, U.S. Cellular, Laura Phillips, representing Nextel Communications, Inc., Roger Sherman, Senior Attorney, Sprint PCS, Mark Rubin, Director of Federal Government Relations, Western Wireless Corporation, and Randy Ammon, Partner, Nextel Partners, Inc., met with Commissioner Copps, Paul Margie, Spectrum and International Legal Advisor, and Jessica Rosenworcel, Competition and Universal Service Legal Advisor.

At the meeting, the parties discussed the Commission's request for comment on the Recommended Decision of the Federal-State Joint Board on Universal Service regarding the definition of services supported by universal service funds, particularly Equal Access. Specifically, the wireless industry representatives discussed the statutory provisions that indicate why an equal access requirement would not be appropriate for wireless carriers in the universal service context. They also explained why such a requirement would not only provide no benefit to consumers, but would result in higher prices in high cost areas as the inefficiencies associated with implementing equal access for wireless providers needlessly raised their costs and sheltered wireline carriers from competition.

The wireless representatives also discussed the additional costs they would incur if the Commission were to decide to add equal access to the definition of supported universal services as ETCs. These costs include the capital costs of the software and hardware changes they would need to make in their infrastructure equipment to accommodate equal access, including deploying additional points of presence and costly trunking wherever they are required to interconnect to interexchange carriers ("IXCs"). Carriers would also incur costs associated with the actual implementation of the equal



access balloting procedures, including developing and implementing new processes to activate IXC connections and send new IXC information to the relevant switches, as well as necessary technical support.

In addition, carriers would be required to devote resources to developing, maintaining and marketing new rate plans that reflected the equal access requirement, as well as train sales personnel in how to educate consumers on how these plans and the entire equal access requirement operate. For carriers who typically generate marketing materials covering wide geographic areas, this is a significant expense that will add greatly to the costs of marketing consumer plans – which have in recent years offered very attractive terms to rural customers precisely because they are able to enjoy the same rate plans as their urban counterparts. Carriers will, moreover, incur additional costs in developing new billing systems to accommodate the equal access requirement, and in deploying new customer care support systems. Finally, an additional major expense would be the costs incurred to interconnect to individual IXCs without the benefit of the volume discounts that can be obtained under the current approach, where carriers are able to concentrate their traffic via cost-efficient trunking arrangements.

The wireless representatives covered the points in the attached presentation, in addition to the specific issues discussed above.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being electronically filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Diane Cornell

Diane Cornell

cc: Commissioner Michael Copps
Paul Margie
Jessica Rosenworcel



## **Equal Access and the Definition of Universal Service**

- The Act does not authorize the Commission to impose equal access requirements on wireless carriers.
  - Equal access does not meet the requirements of Section 254(c)(1), because it is not a "service" that consumers have "opted" to purchase through "free market" decisions. Interexchange service is the "service" customers purchase -- equal access is a legal mandate that courts and regulators imposed on ILECs to open the long distance market to competition.
  - Imposing equal access requirements on wireless carriers is contrary to the explicit mandate of Congress found in Section 332(c)(8). Section 332(c)(8) and Section 254 were both added to the Communications Act in 1996. The Commission cannot do indirectly impose equal access on wireless carriers through the definition of universal service that which the statute prohibits it from doing directly.
- Requiring all ETCs to provide "equal access" would be harmful to consumers.
  - Not a single interexchange carrier supports the imposition of equal access on wireless carriers; and the FL and NY commissions, as well as USTA and several ILECs, oppose it.
  - As the Commission has found, consumers benefit from the national "one rate" plans provided by wireless carriers. Imposition of an equal access requirement either would deny customers these benefits and force them to pay a separate charge for their interexchange service, or be a sham, as no wireless customer would elect to pay a separate charge for interexchange service in addition to the "one rate" wireless carriers offer on a national basis
  - In a competitive environment, regulators should not limit how broadly carriers compete and force all consumers into identical service packages, which is what an equal access requirement would do. As local and long-distance markets converge, it makes no sense to extend the equal access concept to competitive wireless entrants.
  - As USTA recognizes, the Commission would better advance the interests of consumers by reducing the regulatory obligations of ILECs in a competitive environment, rather than increasing the regulation of wireless carriers.
- Requiring Wireless Carriers to provide equal access would require further Commission rulemakings.
  - Equal access would be costly to implement. In addition to the direct cost of installing equal access software in wireless switches and the balloting and implementation of customer "PICS", rules for recovering the costs of obtaining tandem and direct interconnection for interexchange traffic would have to be



created to establish wireless carriers' rights to recover these costs from wireline and interexchange carriers (through access charges), and from their customers. Consumers would be saddled with these increased costs. In an equal access environment, the Commission would have to expand its access charge regime to wireless carriers just as it is attempting to phase out this mechanism.

- An equal access requirement would necessitate an FCC determination of which wireless calls are "local" and which calls are "long distance" for equal access purposes. Local exchange carriers use "LATAs" while the Commission has established "MTAs" for defining wireless local calling areas (see 1996 Local Competition Order). MTAs are too large for capturing interexchange traffic subject to competition, while almost 20 years ago, in the very first MFJ waivers, the Decree Court recognized that LATAs are too small to properly define wireless service markets
- Adding equal access to the definition of universal service would violate the principle of competitive neutrality.
  - Universal service policy should be "competitively neutral" neither impeding competition nor artificially promoting it. Yet the rural ILECs are pushing for equal access precisely in order to reduce or eliminate wireless carriers' ability to compete in the universal service marketplace
  - "Regulatory parity" is neither necessary to achieve competitive neutrality, nor is it appropriate. Is the Commission prepared to require all rural ILECs to add a mobility component to their offering?

